

**July 25, 2008**

**DECISION AND ORDER  
OF THE DEPARTMENT OF ENERGY**

**Appeal**

Name of Petitioner: Gary Maroney

Date of Filing: July 17, 2008

Case Number: TFA-0267

This Decision concerns Gary Maroney's Appeal from a determination that the Department of Energy's (DOE) Richland Operations Office (ROO) issued to him on May 19, 2008. In that determination, the ROO responded to Mr. Maroney's request under the Privacy Act (PA), 5 U.S.C. § 552a, as the DOE implemented in 10 C.F.R. Part 1008. This Appeal, if granted, would require the ROO to perform an additional search and either release newly discovered documents or issue a new determination justifying its withholding.

**I. Background**

Mr. Maroney filed a request with the ROO for his Hanford Site work history records, which the ROO interpreted as a request for his employment records. Determination Letter. The ROO processed Mr. Maroney's request under the PA because the ROO maintains employment records in a PA system of records.<sup>1</sup> E-mail from Dorothy C. Riehle, PA Officer, ROO, to David M. Petrush, Attorney-Examiner, Office of Hearings and Appeals (OHA), July 17, 2008. The ROO denied Mr. Maroney's request because it could not locate his employment records. Determination Letter.

Mr. Maroney then filed the present Appeal with OHA, "[R]egarding the lack of records of [his] having worked at Hanford." Letter from Gary Maroney to OHA, received July 16, 2008. Mr. Maroney included his identification cards from Washington Public Power Supply System and WSH/ Boecon/ GERI, a statement from the Plumbers & Pipefitters National Pension Fund, and a J.A. Jones Construction Co. Statement of Earnings and Deductions, as evidence of his employment history. *Id.* OHA accepted Mr. Maroney's Appeal as challenging the adequacy of the ROO's search.

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<sup>1</sup> The PA defines a system of records as "a group of any records under the control of any agency from which information is retrieved by the name of the individual or by some identifying number, symbol, or other identifying particular assigned to the individual." 5 U.S.C. § 552a(a)(5).

## II. Analysis

In responding to a request for information filed under the Freedom of Information Act (FOIA),<sup>2</sup> courts have established that an agency must “conduct[] a search reasonably calculated to uncover all relevant documents. . . .” *Truitt v. Dep’t of State*, 897 F.2d 540, 542 (D.C. Cir. 1990) (citations omitted). “[T]he standard of reasonableness which we apply to agency search procedures does not require absolute exhaustion of the files; instead, it requires a search reasonably calculated to uncover the sought materials.” *Miller v. Dep’t of State*, 779 F.2d 1378, 1384-85 (8th Cir. 1985); *accord Truitt*, 897 F.2d at 542.

We have not hesitated to remand a case where the search conducted was in fact inadequate. *See, e.g., Todd J. Lemire*, 28 DOE ¶ 80,239 (Aug. 26, 2002) (Case No. VFA-0760) (remanding for a renewed search where DOE’s initial search missed responsive documents that were later found);<sup>3</sup> *Butler, Vines and Babb, P.L.L.C.*, 25 DOE ¶ 80,152 (Dec. 13, 1995) (Case No. VFA-0098) (remanding where there was “a reasonable possibility” that responsive documents existed at an unsearched location).

The ROO sent us additional information to help us evaluate its search. The ROO stated that it searched its paper file index and electronic database for Mr. Maroney’s employment records, using his name and social security number. E-mail from Dorothy C. Riehle, PA Officer, ROO, to David M. Petrush, Attorney-Examiner, OHA, July 17, 2008. The ROO stated that it searched the files most likely to contain Mr. Maroney’s employment records. We agree. For this reason, we find that the ROO conducted a search that was reasonably calculated to uncover all relevant documents, and was therefore adequate. Therefore, we will deny Mr. Maroney’s Appeal.

The ROO noted that it believes that the Washington Public Power Supply System was never a contractor or subcontractor with the DOE. Even if it were, according to the ROO, the DOE did not require all contractors and subcontractors to transfer their employment records to the DOE. Therefore, the ROO suggested that Mr. Maroney consider contacting the Washington Public Power Supply System and the other companies named in his submissions to search for his employment records. *Id.*

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<sup>2</sup> Unlike the Freedom of Information Act (FOIA), which requires an agency to search all of its records, the PA requires only that the agency search its systems of records. However, we require a search for relevant records under the Privacy Act to be conducted with the same rigor that we require for searches under the FOIA.

<sup>3</sup> OHA decisions issued after November 19, 1996, may be accessed at <http://www.oha.doe.gov/foial.asp>.

It Is Therefore Ordered That:

(1) The Appeal that Gary Maroney filed on July 17, 2008, OHA Case No. TFA-0267, is denied.

(2) This is a final order of the Department of Energy from which any aggrieved party may seek judicial review pursuant to 5 U.S.C. § 552a(g)(1). Judicial review may be sought in the district in which the requester resides or has a principal place of business, or in which the agency records are situated, or in the District of Columbia.

Poli A. Marmolejos  
Director  
Office of Hearings and Appeals

Date: July 25, 2008